

### **REMARKS/ARGUMENTS**

Claims 1-11 are pending in the application. Non-elected Claims 12-21 have been withdrawn by the Examiner.

Claim 1 has been amended to more clearly recite that the paddle assembly disposed in the chamber of the apparatus comprises at least one paddle having front and rear exterior surfaces defining a thickness of the paddle and pores extending through the thickness of the paddle from the front surface to the rear surface of the paddle. Basis for this amendment is provided in the specification, for example, at page 5, lines 3-5. Non-limiting embodiments of the recited porous paddle structure are shown in Figs. 6-9.

Claim 1, as well as dependent Claims 8-10, have been amended to more clearly recite that the filter assembly may be coupled to an artery and/or a vein.

Dependent Claim 2 has been amended to conform with the language of amended Claim 1.

Dependent Claims 6, 7, 8, 10 and 11 have been amended to include a comma before the word “wherein”.

Claim 1 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Hein ‘786. According to the Office Action, Hein ‘786 discloses a filter device with an elongated chamber (elements 1, 3 and 6), a paddle assembly (5) disposed within the chamber, a porous floor (8) disposed within and extending across the chamber, and means for coupling (2 and 7) the filter device to an artery and a vein. As to the “means for coupling” recitation of Claim 1, the Office Action states that Hein ‘786 discloses that the end of his filter device comprises tubes (2 and 7), which perform the same function as the claimed “means for coupling” since both structures channel fluid from a source through the filter and back out. Thus, the Examiner considers Hein’s tubes (2 and 7) to be the functional equivalent of Applicants’ “means for coupling”.

Claims 2-5 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hein ‘786 in view of Stannard et al. ‘042. The Office Action acknowledges that Hein ‘786 fails to disclose an apparatus with porous paddles. Stannard et al. ‘042 is relied upon as teaching a filter apparatus with a porous filter bed (26) and paddles or blades (44) that

agitate the fluid in the filter chamber and scrape the particulate material from the filter bed. According to the Office Action, the blades of Stannard et al. '042 may comprise a porous structure that allows water or fluid to pass through them while retaining the solids in the filtered fluid (column 6, lines 26-38).

Applicants submit that Claim 1, as amended, is patentable over Hein '786 alone, or in combination with Stannard et al. '042. Hein '786 discloses a laboratory pressure filtering device for fluids which includes a small magnetic stirrer driven by a rotating magnet underneath the filtration unit. Stannard et al. '042 discloses a filtering device for wastewater treatment sludges including a rigid filter bed and a scraper blade assembly which rotates above the filter bed to lift portions of filter cake from the bed. In the embodiments shown in Figs. 7-10 of Stannard et al. '042, the scraper blades include at least one porous plate and an underlying chamber in the blade in which a vacuum is applied to remove liquid from the filter cake that is deposited on the porous plate.

Applicants submit that one skilled in the field of medical devices as presently claimed would not look to the field of laboratory pressure filtering devices of Hein '786 or the field of wastewater treatment sludge filters of Stannard et al. '042 for possible teachings or suggestions as to the design of medical device filters. Moreover, even if Hein '786 and Stannard et al. '042 could be considered analogous art and could be properly combined as suggested by the Examiner, such a combination would not result in the presently claimed apparatus. For example, even if the scraper design taught by Stannard et al. '042 was used in place of the magnetic stirrer 5 of Hein '786, such a combination would not include a paddle assembly as recited in Claim 1 comprising at least one paddle having front and rear exterior surfaces defining a thickness of the paddle and pores extending through the thickness of the paddle from the front surface to the rear surface of the paddle. Accordingly, Claim 1, and the claims that depend therefrom, are patentable over the prior art of record.

In view of the foregoing amendments and remarks, it is submitted that Claims 1-11 are patentable over the prior art of record. Accordingly, an early Notice of Allowance of this application is respectfully requested.

In the event that any outstanding matters remain in connection with this application, the Examiner is invited to telephone the undersigned at (412) 263-4340 to discuss such matters.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alan G. Towner', with a large, stylized initial 'A'.

Alan G. Towner  
Registration No. 32,949  
Pietragallo, Bosick & Gordon LLP  
One Oxford Centre, 38th Floor  
301 Grant Street  
Pittsburgh, PA 15219  
Attorney for Applicants

(412) 263-4340